



USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 3/30/20

JAMES E. JOHNSON
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET, Rm. 3-137
NEW YORK, NY 10007

GIANCARLO MARTINEZ
Assistant Corporation Counsel
Phone: (212) 356-3541
Fax: (212) 356-3509
gmartine@law.nyc.gov

March 27, 2020

BY ECF

Honorable Gregory H. Woods
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

MEMORANDUM ENDORSED

Re: Philip E. DeBlasio v. Hassan, et al., 19-CV-851 (GHW)

Your Honor:

I am an Assistant Corporation Counsel in the Office of James E. Johnson, Corporation Counsel of the City of New York, and the attorney assigned to the defense in the above-referenced matter. In that capacity, I write to request a 90 day stay of the deadline for fact discovery, from May 15, 2020, to August 14, 2020 in light of the public health emergency and rapidly developing pandemic situation. Upon information and belief, plaintiff is currently incarcerated and, for the reasons noted below, his consent could not expeditiously be obtained.

As the Court is aware, the country is currently grappling with the COVID-19, or coronavirus, pandemic. On March 7, 2020, Governor Andrew Cuomo declared that New York is in a state of emergency because of the rapidly developing pandemic situation. On March 13, 2020, Mayor Bill de Blasio followed suit, and declared New York City to be in a state of emergency as well.

That same day, the United States District Court for the Southern District of New York ("Southern District") issued Standing Order 20 MISC 138, which encouraged individual judges to conduct court proceedings by phone and video conferencing where practicable. Also on March 13, 2020, the Southern District issued Standing Order 20 MISC 015, which suspended and tolled service of process requirements and deadlines. On March 16, 2020, the Southern District issued a Revised Standing Order further limiting access to courthouses.

In light of pronouncements from government and judicial officials, associated policies, expert recommendations, and the further spread of COVID-19, the New York City Law Department, along with the majority of employers in New York City and State, has instructed that individuals should work from home to ensure compliance with public policy directives, and to protect individuals from further community spread of the virus.

Of course, working from home creates a number of challenges that directly impact litigation, particularly in a matter involving a *pro se* plaintiff. Corresponding with incarcerated *pro se* plaintiffs is particularly difficult in the context of a work from home situation, because the normal course of communication with these individuals is through regular mail. Defendants are not physically present to receive mail sent to the office, and therefore are unable to reliably receive correspondence from incarcerated *pro se* plaintiffs. Moreover, working from home complicates sending correspondence to incarcerated *pro se* plaintiffs, as it requires defense counsel to venture out to local post offices to send correspondence, and thus undermines efforts to keep individuals at home.

Additionally, while plaintiff has sent his properly executed HIPAA releases to this Office, I am currently awaiting receipt of his records from his providers. It is anticipated that attempting to obtain the underlying medical records is going to be extremely difficult, if not impossible, as medical providers are likely overloaded with addressing the public health crisis. Only after the medical records are received can defendants take plaintiff's deposition (which presents even further logistical difficulties in the current situation).

Accordingly, I respectfully request that the current fact discovery deadline be stayed for 90 days, from May 15, 2020, to August 14, 2020.

Thank you for your consideration herein.

VIA FIRST CLASS MAIL

Philip E. DeBlasio, DIN #19-A-0070
Plaintiff Pro Se
New York State Department of Corrections
Green Haven Correctional Facility
594 NY-216
Stormville, NY 12582

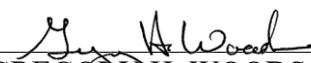
Respectfully submitted,

/s/ Giancarlo Martinez
Giancarlo Martinez
Assistant Corporation Counsel
Special Federal Litigation Division

Application granted. The deadline for the completion of fact discovery is extended to August 14, 2020. All expert discovery shall be completed by no later than October 2, 2020. Every party-proponent of a claim (including any counterclaim, cross-claim, or third-party claim) that intends to offer expert testimony in respect of such claim must make the disclosures required by Fed. R. Civ. P. 26(a)(2) by August 15, 2020. Every party-opponent of such claim that intends to offer expert testimony in opposition to such claim must make the disclosures required by Fed. R. Civ. P. 26(a)(2) by August 29, 2020. The status conference currently scheduled for July 9, 2020 is adjourned to October 7, 2020 at 4:00 p.m. Except as expressly modified by this order, the Case Management Plan and Scheduling Order entered by this Court on May 15, 2019, Dkt. No. 15, remains in full force and effect. The Clerk of Court is directed to mail a copy of this order to Plaintiff by first-class and certified mail and to terminate the motion pending at Dkt. No. 34.

SO ORDERED.

Dated: March 30, 2020


GREGORY H. WOODS
United States District Judge